

COX, WOOTTON, LERNER, GRIFFIN & HANSEN LLP

NORMAND R. LEZY 6297

E-Mail: nlezy@cwlfirm.com

MICHAEL J. NAKANO 6940

E-Mail: mnakano@cwlfirm.com

Davies Pacific Center, Suite 1099

841 Bishop Street

Honolulu, Hawaii 96813

Telephone: (808) 744-7020

Facsimile: (808) 354-0427

Attorneys for Unserved Defendant; by Special Appearance

KAANAPALI SAILS, INC.

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF HAWAII

JANET BACHMAN,

Plaintiff,

vs.

KAANAPALI SAILS, INC. dba
TERALANI; JOHN DOES 1-20; JANE
DOES 1-20; DOE CORPORATIONS
1-20; DOE PARTNERSHIPS 1-20;
DOE GOVERNMENTAL ENTITIES
1-20.

Defendants.

CIVIL NO. 21-00013
(Non-Motor Vehicle Tort)

**SPECIALLY APPEARING
UNSERVED DEFENDANT
KAANAPALI SAILS, INC.'S
NOTICE OF REMOVAL;
EXHIBIT "1"; CERTIFICATE OF
SERVICE**

**SPECIALLY APPEARING UNSERVED DEFENDANT
KAANAPALI SAILS, INC.'S NOTICE OF REMOVAL**

TO THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII:

Unserved Defendant KAANAPALI SAILS, INC. ("Unserved

Defendant”), specially appearing, hereby removes Civil No. 1CCV-21-0000002 from the Circuit Court of the Second Circuit, State of Hawaii, to the United States District Court for the District of Hawaii. The grounds for removal are:

1. The Complaint in this action was filed on January 6, 2021 and is now pending in the Circuit Court of the Second Circuit, State of Hawaii, as Civil No. 1CCV-21-0000001. A true and correct copy of the Complaint is submitted as Exhibit 1. Exhibit 1 constitutes all process, pleadings, and orders in this action.

2. The Complaint has not been served on Unserved Defendant. Accordingly, this Notice of Removal is timely filed. As an unserved party, Unserved Defendant appears specially.

3. This action is within the original jurisdiction of this Court pursuant to 28 U.S.C. §1332, as the matter in controversy “exceeds the sum or value of \$75,000, exclusive of interests and costs, and is between... citizens of a State and citizens or subjects of a foreign state. . . .” 28 U.S.C. §1332(a)(2).

4. Plaintiff is a citizen of the State of Missouri.

5. Unserved Defendant is a citizen of the State of Hawaii in that it is a Hawaii Corporation organized under the laws of the State of Hawaii and has its principal place of business in the State of Hawaii.

6. Because Unserved Defendant and Plaintiff are citizens of different states, complete diversity exists in this action. 28 U.S.C. §1332(a)(1).

7. Plaintiff's Complaint asserts a claim for personal injury under Hawaii law against Unserved Defendant in connection with an alleged January 9, 2019 accident involving Plaintiff's disembarkation from Unserved Defendant's passenger vessel ("Accident"). See Exhibit 1, Complaint, p.3, ¶13. Plaintiff contends that as the result of the accident she sustained injuries, including a displaced, spiral fracture of her right humerus. Plaintiff's Complaint includes prayers for special, general, consequential, exemplary, and punitive damages. See Exhibit 1, Complaint, p.5. Prior to filing suit, Plaintiff proffered a settlement demand on Unserved Defendant totaling \$200,000.00, which identified special damages for medical expenses in the amount of \$15,891.75. Therefore, the amount in controversy, exclusive of interest and costs, contemplates an amount exceeding the sum or value of \$75,000.00.

8. This Notice of Removal is filed pursuant to 28 U.S.C. §1446.

9. Promptly after filing this Notice of Removal, Unserved Defendant will give written notice to Plaintiff and file a copy of the Notice of Removal with the Clerk of the Court of the Second Circuit of the State of Hawaii.

10. Thirty (30) days have not yet expired since this action became removable to this Court.

WHEREFORE, Unserved Defendant KAANAPALI SAILS, INC., specially appearing, removes this action from the Circuit Court of the Second

Circuit, State of Hawaii to the United States District Court for the District of Hawaii.

DATED: Honolulu, Hawaii, January 8, 2021.

/s/ Normand R. Lezy
NORMAND R. LEZY
MICHAEL J. NAKANO
Attorneys for Unserved Defendant
KAANAPALI SAILS, INC.
Specially Appearing